

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JUN 30 2005

MISCELLANEOUS
& STATE RECORDS

County
~~XXXX~~ of Erie
~~XXXX~~
~~XXXX~~

Local Law No. 7 of the year 2005.

A local law amending Local Law No. 2-1992 establishing a Probation Administrative Fee and establishing an Electronic Monitoring Fee and a Drug Testing Fee in Erie County.

Be it enacted by the Legislature of the

County
~~City~~ of Erie as follows:
~~Town~~
~~Village~~

Section 1. Section 1 of County of Erie Local Law No. 2-1992 is hereby deleted in its entirety and replaced with the following:

SECTION 1. Legislative Intent. The Erie County Legislature finds it to be in the best interests of the County of Erie, as matters both of public safety and fiscal responsibility, to require that, subject to their ability to pay, individuals under sentences of probation who are receiving administrative, electronic monitoring and drug testing services from the Erie County Department of Probation and Youth Detention pay reasonable fees so as to defray the costs of such services in order that adequate staffing levels can be maintained within said department.

Section 2. Section 2 of County of Erie Local Law No. 2-1992 is hereby deleted in its entirety and replaced with the following:

SECTION 2(A). Administrative Fee. It is hereby required that all individuals who are currently serving or who shall be sentenced to a period of probation upon conviction of any crime, whether under article thirty-one of the vehicle and traffic law or under any other law, shall pay to the Erie County Department of Probation and Youth Detention an administrative fee of thirty-five dollars per month during the period starting with the commencement of the sentence of probation and ending with the termination of same pursuant to law. The proceeds from this fee shall remain in the Department of Probation and Youth Detention to assist with the cost of probation supervision.

SECTION 2(B). Electronic Monitoring Fee. It is hereby required that all individuals who are currently serving or who shall be sentenced to a period of probation upon conviction of any crime, whether under Article 31 of the Vehicle and Traffic Law or under any other law, and who is required to submit to electronic monitoring pursuant to Section 65.10(4) of the Penal Law, shall pay to the Erie County Department of Probation and Youth Detention an electronic monitoring fee of three dollars per day during the period starting with the commencement of such electronic monitoring and ending with the termination of same pursuant to law. The proceeds from this fee shall remain in the Department of Probation and Youth Detention to assist with the cost of probation supervision.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 2(C). Drug Testing Fee. It is hereby required that all individuals who are currently serving or who shall be sentenced to a period of probation upon conviction of any crime, whether under article thirty-one of the vehicle and traffic law or under any other law, and who is required to submit to drug testing as a condition thereof, shall pay to the Erie County Department of Probation and Youth Detention a drug testing fee of fifty dollars for each such sentence of probation not being served concurrently. The proceeds from this fee shall remain in the Department of Probation and Youth Detention to assist with the cost of probation supervision.

Section 3. Section 3 of County of Erie Local Law No. 2-1992 is hereby deleted in its entirety and replaced with the following:

SECTION 3. Fee Waivers Determined Monthly. The Erie County Department of Probation and Youth Detention shall waive one or more of such fees, or portions thereof, where, because of the indigence of the person sentenced to probation, requiring full payment would work an unreasonable hardship on such person, his or her immediate family, or any other person who is dependent on such person for financial support. The said department shall make such fee waiver determinations on a monthly basis.

Section 4. Section 4 of County of Erie Local Law No. 2-1992 is hereby deleted in its entirety and replaced with the following:

SECTION 4. Fees Not a Condition of Sentence. Payment of the fees required hereunder shall not constitute nor be imposed as a condition of a sentence of probation.

Section 5. Section 5 of County of Erie Local Law No. 2-1992 is hereby deleted in its entirety and replaced with the following:

SECTION 5. Collection of Fees. The provisions of subdivision 6 of Section 420.10 of the Criminal Procedure Law shall govern for purposes of collection of the fees required hereunder.

Section 6. Section 6 of County of Erie Local Law No. 2-1992 is hereby deleted in its entirety and replaced with the following:

SECTION 6. Enforcement as Debt. In the event of the non-payment of any of the fees required hereunder, where such fees have not been waived, the County may seek to enforce payment in any manner permitted by law for the enforcement of a debt.

Section 7. Section 7 of County of Erie Local Law No. 2-1992 is hereby deleted in its entirety and replaced with the following:

SECTION 7. Utilization of Collected Fees. Monies collected hereunder shall be utilized for probation services by the Erie County Department of Probation and Youth Detention and shall not be considered by the New York State Division of Probation and Correctional Alternatives when determining state aid reimbursement pursuant to Section 246 of the Executive Law nor shall such monies be used to replace federal funds otherwise utilized for probation services.

Section 8. County of Erie Local Law No. 2-1992, as amended, is hereby further amended by adding a new Section 8 to read as follows:

SECTION 8. Severability. If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, in whole or in part, such determination shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the proceeding in which such adjudication shall have been rendered.

Section 9. County of Erie Local Law No. 2-1992, as amended, is hereby further amended by adding a new Section 9 to read as follows:

SECTION 9. Effective Date. This local law shall take effect immediately upon filing with the Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 7 of 2005 of the (County)(City)(Town)(Village) of Erie was duly passed by the Erie County Legislature on June 2 2005 and was (approved)(not approved)(repassed after ~~disapproval~~) by the Erie County Executive and was deemed duly adopted on June 23 2005, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ 2____, above.

Kerim M. Kelley
Clerk of the County legislative body, City, Town or Village XXXX
XXXXXX designated by local legislative body XXXX

(Seal)

Date: 6-29-05

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Erie

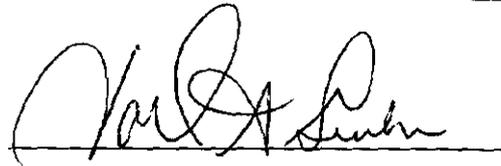
I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Gregory J. Dudek
Signature
Gregory J. Dudek, Assistant County Attorney
Title

County
~~NY~~ of Erie
~~Town~~
~~XXXX~~

Date: June 29 2005

A Public Hearing was held on the foregoing Local Law Intro. No. 10-2005 on Wednesday, June 15, 2005, due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, JOEL A. GIAMBRA, County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this 23 day of June, 2005.



A handwritten signature in cursive script, appearing to read "Joel A. Giambra", is written over a horizontal line.

A Public Hearing was held on the foregoing Local Law Intro. No. 10-2005 on Wednesday, June 15, 2005, due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, JOEL A. GIAMBRA, County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this _____ day of June, 2005.
